

### **Applicant Remarks**

#### **1) Summary of interview held on July 1<sup>st</sup>, 2009**

Applicant wishes to thank Examiner for his willingness to discuss the issues surrounding this application and for the general guidance offered in the Advisory Action mailed on July 6, 2009. Upon review, Applicant acknowledges that the Examiner's Interview Summary Record (PTOL-413) is an accurate summary of the above referenced interview. In order to comply with 37 CFR 1.133(b), MPEP § 502.03 and § 713.01, the following summary of the substance of the interview is offered:

- a) No exhibits or demonstrations were shown.
- b) All claims were discussed.
- c) The prior art discussed, Morimoto et al and Feldbrugge et al, is of record.
- d) Proposed amendments were to add the phrase "consisting essentially of" or "consisting of" to the applications independent claims.
- e) Applicant's argument remains that denatured and nondenatured proteins are unique ingredients that one in the art would know to result in unique products. Examiner essentially rested on previous arguments that Examiner believes clearly demonstrate the invention as claimed is unpatentable over the prior art.
- f) No other pertinent matters were discussed
- g) An agreement was made that applicant would or could amend the claims to include the language "consisting essentially of." NO agreement was made as to whether the amendment would render the claims patentable or put the application in condition for allowance. Examiner has only agreed to reconsider patentability, base on Applicant's use of nondenatured protein, the expectations of the prior art for such use, and the inclusion of the language "consisting essentially of" in the application's independent claims.

## 2) Amendments to claims

As suggested by Examiner, independent claims 1, 56, and 109 have been amended by replacing the language “comprising” with “consisting essentially of.” This change of language is intended to prevent the inclusion of any ingredient, such as alcohol, that would denature the undenatured proteins prior to the extrusion process. Also, as the Examiner’s advisory action pointed out that some claims had not been properly amended to refer to undenatured proteins, claim 109 has been amended accordingly. The subject matter of undenatured proteins was presented in the original claim 82, which was previously cancelled upon the incorporation of said subject matter into claims 1 and 56. Other minor amendments to claims 1, 56, and 109 include the deletion of the word “about,” which Applicant believes clarifies the ranges claimed in independent claims 1, 56, and 109. These amendments add NO NEW MATTER to the application.

## 3) Previously presented arguments

Applicant requests reconsideration based on the previously presented arguments in the reply filed on June 3, 2009. The thrust of the argument is that the one in the art would expect different products based on the use of undenatured versus denatured proteins. Thus, the claims, as currently amended, reflect Applicant’s novel product.

## Summary

The preponderance of evidence weighs in favor of the patentability of the presently claimed invention. For the reasons previously presented, Applicant requests reconsideration and allowance of all claims

Respectfully submitted,

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